

OGC HAS REVIEWED.

Approved For Release 2002/11/04 : CIA-RDP79-00498A000700090002-3

30 December 1976

CONFIDENTIAL

DD/A Registry
76-6445

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MEMORANDUM FOR: Mr. Michael J. Malanick
Associate Deputy Director for Administration
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FROM: [REDACTED]
Office of General Counsel

SUBJECT: [REDACTED] Request for
Financial Waiver

REFERENCE: Memo to A/DDI, fm A/DDA, dtd
27 Sep 76, Same Subj.

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1. In referent memorandum, you requested that this Office render an opinion as to the applicability of 5 U.S.C. 4108 and its implementing regulations to a request by a former employee, [REDACTED], that the Agency waive a portion of a \$2676.90 debt owed by him arising out of outside training expenses incurred by CIA on [REDACTED] behalf prior to his resignation from the Agency after completing twelve months of CIA-sponsored training at [REDACTED]. As you know, Mr. [REDACTED] financial obligation stems from the fact that, pursuant to the general requirement imposed on Federal employees by the statute in question, he had previously agreed in writing to continue in the service of the Agency after the end of his training for a period at least equal to three times the length of the training period. Accordingly, by failing to stay with the Agency for the requisite three years after completing twelve months of outside training at CIA expense, he breached the terms of this Continuing Service Agreement and became liable for the total costs to the Agency for his training.

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2. [REDACTED]'s request for partial relief from his obligation is based on a subsection of 5 U.S.C. 4108 which authorizes the head of the Federal agency involved or his designate to "waive in whole or in part a right of recovery under this subsection, if it is shown that the recovery would be against equity and good conscience or against the public interest." Accordingly, citing his one year of service to CIA after the completion of his Agency-sponsored outside training, he has requested a waiver of one-third of the total costs incurred by the Agency for the training based on the rationale that he has satisfied one-third of his three-year commitment to us.

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3. Agency policy with respect to the training of employees at non-CIA facilities, as set out in [REDACTED], provides that "whenever possible" Agency procedures will be consistent with those contained in Chapter 41, Title 5 of the U.S. Code. Therefore, since [REDACTED] request for a waiver is legally cognizable under the terms of 5 U.S.C. 4108 and its implementing regulations, we see no legal impediment to the DCI or his representative designated for this purpose approving such a waiver if the requisite determination is made that total recovery of the debt by the Agency would be "against equity and good conscience or against the public interest."

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cc: OIG, [REDACTED]

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STATINTL

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